



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

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Robert G. Burnley  
Director

Steven A. Dietrich  
Regional Director

### STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO Southern Finishing Company, Inc.

#### SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Southern Finishing Company, Inc., for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

#### SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code § 10.1-1301 and 10.1-1184
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Southern Finishing Company, Inc." or "Southern Finishing Company" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the structure at 801 East Church Street located in Martinsville, Virginia.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "O&M" means operations and maintenance.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Southern Finishing Company, Inc., owns and operates a facility on 801 East Church Street in Martinsville, Virginia. This facility is the subject of a Title V Operating Permit dated December 17, 1999, which allows the operation of a wood furniture manufacturing facility. In addition to the Title V permit, the source is subject to 40 CFR 63 Subpart JJ, 40 CFR 63 Subpart RRRR, 40 CFR 60 Subpart EE, and Virginia State Air Pollution Control Law and regulations.
2. Southern Finishing Company is also subject to a Special Consent Order of the Board with an effective date of October 17, 2003. That Consent Order resolved all apparent violations of air pollution control law and regulations that were alleged in Notices of Violation (NOVs) issued by DEQ to Southern Finishing Company on April 14, 2003, and May 27, 2003. Southern Finishing Company neither admits nor denies the allegations raised in those NOVs but represents that it entered into that Consent Order in order to avoid the cost and uncertainties of further enforcement action on the part of DEQ.
3. Among other terms and conditions, Section D.1 of the Consent Order of October 2003 required Southern Finishing Company to pay to the Commonwealth of Virginia a civil charge of \$44,738.67, which was payable in full by November 16, 2003 (30 days from that Consent Order's effective date). On or about December 22, 2003, DEQ received from Southern Finishing Company a check in the amount of \$3,666.67. DEQ issued a NOV to Southern Finishing Company on January 5, 2004, for this alleged violation of the October 2003 Consent Order. Southern Finishing paid the remaining \$41,072.00 due on the October 2003 Consent Order on or about July 1, 2004.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, 10.1-1184 and §10.1-1316.C, orders Southern Finishing Company, Inc., and Southern Finishing Company, Inc. agrees, to pay a civil charge of **\$4,200.00**. This civil charge shall be paid within **thirty (30) days** of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

## **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Southern Finishing Company, Inc., for good cause shown by Southern Finishing Company, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Southern Finishing Company admits the jurisdictional allegations, factual findings, and conclusions of law contained herein. The Department and Southern Finishing Company agree that the actions undertaken by Southern Finishing Company in accordance with this Consent Order do not constitute an admission of any liability by Southern Finishing Company. Southern Finishing Company does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the Finding of Facts and Conclusions of Law contained in Section C of this Order.
4. Southern Finishing Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Southern Finishing Company declares it has received fair and due process under the Administrative Process Act, Va. Code § 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Southern Finishing Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Southern Finishing Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Southern Finishing Company shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Southern Finishing Company shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Southern Finishing Company, Inc.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Southern Finishing Company. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Southern Finishing Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Southern Finishing Company, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of AUGUST 20, 2004.

Steven A. Dietrich  
for Robert G. Burnley, Director  
Department of Environmental Quality

Southern Finishing Company, Inc. voluntarily agrees to the issuance of this Order.

By: Ed Brown

Date: 8/17/04

Commonwealth of Virginia <sup>NC</sup>  
City/County of Rockingham

The foregoing document was signed and acknowledged before me this 17<sup>th</sup> day of  
August, 2004, by Ed Brown, who is  
(name)

Pres of Southern Finishing Company, Inc., on behalf of the Corporation.

(title)  
BETTY V. ROBERTSON  
ROCKINGHAM COUNTY  
NORTH CAROLINA  
NOTARY PUBLIC

Betty V. Robertson  
Notary Public

My commission expires: March 5, 2007